

# **EXHIBIT B**

1

2

4

5

6

7

8

12

16

17

18

19

## Professional Reporters

**800.376.1006**

[www.proreporters.com](http://www.proreporters.com)

1 APPEARANCES Continued

2 Appearing on behalf of the INTERVENOR-PLAINTIFF,  
OSAGE MINERALS COUNCIL:

3 Mary Kathryn Nagle  
Ridge Howell

4 PIPESTEM & NAGLE  
1333 New Hampshire Avenue  
5 N.W. Washington, D.C. 20036  
202-407-0591

6 mknagle@pipestemlaw.com

7 Appearing on behalf of the INTERVENOR-PLAINTIFF and  
DEFENDANT, OSAGE WIND, LLC, ENEL KANSAS, LLC and  
8 ENEL GREEN POWER NORTH AMERICA, INC.:

Robin Ball

9 NORTON ROSE FULBRIGHT US LLP  
555 South Flower Street, 41st Floor  
10 Los Angeles, California 90071  
213-892-9200

11 robin.ball@nortonrosefulbright.com  
and

12 Lynn Slade

Dominic Martinez

13 MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.

Post Office Box 2168

14 Albuquerque, New Mexico 87103-2168

505-848-1800

15 lynn.slade@modrall.com

dam@modrall.com

16

17

18 Exhibit Concierge/Videographer: Stesha Snow

Also present: Francesca Boewe, Christina Watson,

19 Michelle Hammock

20

21

22

23

24

25

1     you told them they needed to get, correct?

2           A     The contract that the Agency utilizes  
3     is -- was called a sandy soil permit.

4           Q     But, in fact, there's no provision in Part  
5     214 for a sandy soil permit, as we just talked  
6     about, and but -- so there's no provision in Part  
7     214 for the permit that you told them they needed,  
8     correct?

9           MR. ASHWORTH: Object to the form.

10          A     Yes.

11          Q     (By Mr. Ball) Now, you said "sandy soil,"  
12     those words don't appear in Part 214. Was there any  
13     published guidance by the BIA about sandy soil  
14     permits or leases in September 2014, October 2014,  
15     during that time frame? Was there any published  
16     guidance by the BIA about such permits or leases?

17          A     The Osage Agency would have, like, a desk  
18     operating procedures manual.

19          Q     So that would be something provided to  
20     employees of the Agency?

21          A     Yes.

22          Q     Was it posted on the BIA website --

23          A     No.

24          Q     -- at the time?

25          A     No.

1 Q Was there any publicly -- any published  
2 guidance about sandy soil leases or permits in  
3 October 2014 when you issued your letter to -- your  
4 October 9th letter?

5 MR. ASHWORTH: Object to the form.

6 A When you say published, what do you mean  
7 there?

8 Q (By Mr. Ball) I mean to the public. So  
9 if somebody was looking at doing business in Osage  
10 County and wanted to look up what the requirements  
11 were, was there anything, either -- that you  
12 published in some publication or that was posted on  
13 the website that someone could have accessed to see  
14 information about a sandy soil permit or a sandy  
15 soil lease?

16 MR. ASHWORTH: Object to the form.

17 A 25 C.F.R. 214 is something that you can  
18 Google.

19 Q (By Mr. Ball) Apart from that --

20 A So it is -- it is available for the  
21 public.

22 Q Okay. My question is a little different  
23 than that. We've talked about the fact that Part  
24 214 does not refer to the words "sandy soil," it  
25 doesn't refer to "permits." Is there anything that

1     you have published in the sense that we just talked  
2     about that referenced sandy soil permits for leases  
3     in published --

4             A     No.

5             MR. BALL:   Let's go to my document  
6     number -- document number 13, which I'll mark as  
7     Exhibit 128, a multi page document with Bates pages  
8     Osage Wind 018677 through 0181679.

9             (Exhibit 128 marked for identification.)

10            MR. BALL:   So you see that the first page  
11     of this letter is from Joan Heredia of Enel to  
12     Mr. Whiteshield?   We can blow it up if you need it  
13     for that.   I don't mean to strain your eyes.

14            A     Please.

15            MR. BALL:   Okay.   If you'll enlarge the  
16     first top -- the top of the letter and then enlarge  
17     the second, the bottom of the letter.

18            A     Yes.

19            MR. BALL:   Okay.   If you would please show  
20     the witness the rest of the letter.

21            Q     (By Mr. Ball)   You see this was CC'd to  
22     you?

23            A     Yes.

24            Q     And it's from October 10th, 2014?

25            A     I'm not able to read the paragraph,